IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.1292 OF 2006
IN
CRIMINAL APPEAL NO.1235 OF 2006

Mr.Satish Sayaji Gaikwad
Mr.Kancha Nepali ...Applicants.
V/s.
The State of Maharashtra ...Respondent.

Shri Milind Thenge, adv. for the Applicants.
Shri S.R.Shinde, APP for the State.

CORAM: J.H.BHATIA, J.
DATE : 2nd February, 2007.

P.C.:

1. Heard Mr.Thenge, the learned counsel for the applicants and Mr.S.R.Shinde, the learned counsel for the State.

2. The applicants were convicted for the offences punishable under Sections 376 (2)(g) of the I.P.C. for gang rape and were sentenced to undergo R.I. for 10 years and to pay fine. They were also convicted for the offences punishable under Sections 452 and 506 and varying periods of sentence were awarded. The applicants have preferred an appeal against the conviction and sentence. Appeal is admitted. By this application, the applicants seek to be released on bail pending final hearing and disposal of the appeal.

3. Prosecution case is that on 5th September, 2005, at about 2.00 a.m. the prosecutrix, wife of rickshaw driver, was alone at her house. She woke up by hearing some sounds and then she found one hand through a hole of the wall of her house. Under the impression that her husband must have come, she opened the door, however both the accused forcibly made entry in the house. They overpowered the prosecutrix and made her lie on the mat and shut her mouth. Accused no.1 committed rape on her. After that both the accused persons went away. Accused no.2 himself did not commit rape but he actively assisted and helped accused no.1 in commission of the offence . After hearing the arguments, the trial Court convicted both the accused persons. Taking into consideration nature of the offence and evidence of the prosecutrix and the fact that there could be no reason for her to falsely implicate the accused persons, I find that it is not a fit case to grant the bail.

3. Application stands disposed off.

(J.H.Bhatia,J.)